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ENT DOMAIN *supra;* ELLIOTT STREETS AND ROADS, 2 ed. Sec. 234; *Sanborn* v. *Belden* (1876), 51 Cal. 266; *Chicago, etc. Ry. Co.* v. *Gates* (1887), 120 Ill. 86, 11 N. E. 527; *City* v. *Mason* (1872), 37 Texas 447; *Livingstone* v. *Commissioners* (1894), 42 Neb. 277, 60 N. W. 555. In the security required a distinction is generally recognized between a taking by the public and by private parties, the public faith being adjudged sufficient in the former case. LEWIS, EMINENT DOMAIN, Sec. 457; COOLEY, CONS. LIM. 6 ed. 692; *State* v. *Hogue* (1888), 71 Wis. 384, 36 N. W. 860; *Covington, etc, Ry. Co.* v. *Piel* (1888), 87 Ky. 267, 8 S. W. 449; *People* v. *Ry. Co.* (1899), 160 N. Y. 225, 54 N. E. 689. And extreme cases hold that a provision for judgment with ordinary final process, or for injunction affords adequate security. *Brickett* v. *Aqueduct Co.* (1886), 142 Mass. 394, 8 N. E. 119. Preliminary occupation for purposes of survey violates no constitutional provision. COOLEY, CONS. LIM. 6 ed. 691; *Walther* v. *Warner* (1857), 25 Mo. 277; *Cushman* v. *Smith* (1852), 34 Me. 247.

CONSTITUTIONAL LAW—LEGISLATIVE CONTROL OF MUNICIPAL CONTRACTS —EIGHT HOUR LAW.—Plaintiff entered into a contract with the city of Cleveland to construct a sewer. In obedience to a statute of the state of Ohio, requiring the insertion of such stipulation in all contracts for public work, the contract provided that laborers should not be required, or permitted, to work more than eight hours a day, with a penalty upon the contractor for each day's work in excess of eight hours. Plaintiff violated this provision of his contract, and a considerable sum was claimed to have been forfeited, for which he brings this action. *Held*, that plaintiff may recover. *The City of Cleveland* v. *Clements Bros. Construction Co.* (1902), — Ohio, —, 65 N. E. Rep. 885.

The court took the view that the statute was void in that it invaded and violated the constitutional freedom of contract. The eight hour clause, being in the contract by virtue of the statute rather than by agreement of the parties, must fall with the statute. *People* v. *Coler*, 166 N. Y. 1, 59 N. E. 716, 52 L. R. A., 814, 82 Am. St. Rep. 605, was extensively quoted and relied upon. It is a well established principle that it is beyond the constitutional power of the state to control by law the contracts which shall be made between employer and employees, when these persons are individuals or private corporations and the subject matter of their contract is not necessary to be regulated for police reasons. *In re Morgan*, — Colo. —, 47 L. R. A. 52; *People* v. *Coler (supra);* COOLEY, CONST. LIM., 6th ed. 486. Such legislation may be sustained as an exercise of the police power if designed to promote the health and safety of the people. *Holden* v. *Hardy*, 169 U. S. 366, 42 Law Ed. 780; *Short* v. *Mining Co.* 20 Utah 20, 45 L. R. A. 603. What is a valid exercise of the police power is a judicial question. *In re Jacobs*, 98 N. Y. 98, 50 Am. Rep. 636; *Ritchie* v. *People*, 155 Ill. 98, 40 N. E. 454, 29 L. R. A. 79. Eight hour laws have, in general, been held unconstitutional, so far as they affect contracts between individuals and between individuals and private corporations. *In re Morgan (supra)*; *People* v. *Ritchie (supra); Low* v. *Rees Printing Co.*, 41 Neb. 127, 59 N. W. 362, 24 L. R. A. 702; *Ex parte Kuback*, 85 Cal. 274, 24 Pac. 737, 20 Am. St. Rep. 226, 9 L. R. A. 482. But a law providing that eight hours shall constitute a day's work, and requiring counties, cities and townships to so stipulate in their contracts for public work, is valid and constitutional, being a direction from the state to its agent. *Re Dalton*, 61 Kan. 257, 37 L. R. A. 380, 59 Pac. 336; *People* v. *Warren*, 77 Hun, 120. Defendants in the principal case based their defense on the above principle. For answer the court invoked the doctrine of the dual nature of the functions of a municipality—the one public, in which it performs purely

governmental duties, and the other private, in so far as it provides for the local needs and conveniences of its own citizens. In the former character only is the city to be deemed the agent of the state and subject to its absolute control, citing *People* v. *Coler (supra); New Orleans Ry.* v. *City of New Orleans*, 26 La. Annual, 478; *Atkins* v. *Town of Randolph*, 31 Vt. 237; *Western College* v. *City of Cleveland*, 12 Ohio St. 375. This twofold character of the municipality, and the line which marks the limit of legitimate legislative interference was clearly defined by Judge Cooley in *People* v. *Hurlbut*, 24 Mich. 44, 9 Am. Rep. 103. See also *Bailey* v. *New York*, 3 Hill, 531, 38 Am. Dec. 669, and *Allor* v. *The Auditor*, 43 Mich. 76, 4 N. W. 492, where it is said that "no business which is, in its nature, municipal, can be controlled by the state." On the other hand, many of the cases assert a very extensive power of control in the legislature over municipal corporations, with few if any limitations. *State* v. *Williams*, 68 Conn. 131, 48 L. R. A. 465, affirmed 170 U. S. 304, 42 Lawyer's Ed. 1048; *Frederick* v. *Groshon*, 30 Md. 436, 96 Am. Dec. 591. It is believed, however, that most of the cases could be harmonized on their facts, and that a city does have a private capacity in which it acts as the agent of its citizens, not as agent of the state, and where legislative interference is improper. In this view, the decision in the principal case was clearly sound in principle.

CONSTITUTIONAL LAW—PRIVILEGES AND IMMUNITIES OF CITIZENS—STATUTE AUTHORIZING PERSONAL JUDGMENT ON CONSTRUCTIVE SERVICE.—A citizen of Kentucky, brought this action for slander and for alleged false imprisonment of the plaintiff by the defendant, in the state court against F. M. K., a citizen of Pennsylvania, but who at the time was doing business in the city of Louisville under the name of F. M. K. & Co. The plaintiff caused a summons to be issued thereon against the defendant, which was served on the agent of F. M. K., who was in charge of the said business, F. M. K. being a non-resident of the state of Kentucky. This summons was served according to subsection 6 of section 51 of the code of Kentucky, which reads, "in actions against an individual residing in another state, engaged in business in this state, the summons may be served on the manager, or agent of, or person in charge of such business in this state." The defendant moved to quash the return of the summons because of the invalidity of the statute. *Held*, that the statute was unconstitutional. *Moredock* v. *Kirby*, (1902), —C. C. A.—,118 Fed. Rep. 180. A month later, a similar statute of the state of Minnesota was declared unconstitutional for like reasons. *Cabonne* v. *Graf* (1902), — Minn. —, 92 N. W. Rep. 461.

Aside from these two decisions, the precise question involved in these cases does not seem to have been decided before by any court. The court declares the statute invalid for two reasons. First, as in violation of the constitutional provision that the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states. *Slaughterhouse Cases*, 16 Wall. 77, 21 L. ed. 394. Second, without personal service upon the defendant it would not be "due process of law." *Pennoyer* v. *Neff*, 95 U. S. 730, 24 L. ed. 565; *Ins. Co.* v. *French*, 18 How. 406, 15 L. ed. 451; *Dartmouth College* v. *Woodward*, 4 Wheat. 518. Many questions very closely related to this one have been adjudicated upon by the courts with the same general result. *D'Arcy* v. *Ketchem*, 52 U. S. 11 How. 165; *Knowles* v. *Logansport Gaslight & Coke Co.*, 86 U. S. 19 Wall. 58; *Bell* v. *Morrison*, 1 Peters, 351; *Hall* v. *Lanning*, 91 U. S. 160; *Brooks* v. *Dun*, 51 Fed. Rep, 138; *Wilson* v. *Seligman*, 144 U. S. 41.

CORPORATIONS—NOTICE TO CORPORATORS.—Chattels were sold and delivered with a reservation of title in the vendor till payment. The statute